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DCI/IC 77-1932/1  
11 October 1977

MEMORANDUM FOR: Acting Deputy to the DCI for the  
Intelligence Community

VIA : Director, Office of Policy and Planning, ICS

FROM :   
Acting Chairman, Security Committee

SUBJECT : Proposed Executive Order on Security Classification

1. Attached is a proposed memorandum for your signature addressed to the General Counsel to forward IC Staff comments on the proposed Executive Order on "National Security Information and Material." The General Counsel will meld our comments in with those additional ones which come from CIA Directorates and prepare a consolidated set of comments for the DCI to send OMB.

2. The proposed IC Staff comments have been coordinated informally with OGC, and take account of suggestions and recommendations received from IC Staff components. Paragraph 2 of the attached proposed memorandum is designed to state our view on a matter raised informally by STAT OGC. He advised that an Operations Directorate official was arguing for deletion from the proposed Order of any definition of sources and methods, and he solicited our thoughts on the inclusion of such definition.



STAT

Attachment:  
as stated

DCI/IC 77-1932

14 OCT 1977

MEMORANDUM FOR: General Counsel

FROM: John N. McMahon  
Acting Deputy to the DCI for the  
Intelligence Community

SUBJECT: Proposed Executive Order on National Security Information  
and Material

REFERENCE: General Counsel, OMB, Letter, dated 13 September 1977  
to the DCI

1. Attached, for your use in preparing the DCI response to referenced request for comments, are Intelligence Community Staff comments on the proposed Executive Order on "National Security Information and Material." Please ensure that the draft DCI response advises OMB that the comments provided reflect the DCI's interests for both CIA and the Intelligence Community. The OMB drafter of the reference asked that both aspects be addressed.

2. Please note that the attached comments recommend changes to the proposed definitions of intelligence sources and intelligence methods. Those changes should ensure that the broad classes of sources and methods we need to be particularly concerned about will be properly protected by security classification. Note also that another change we recommend would have information satisfying the definitions for sources and methods be classified on that basis alone, and not have to undergo a separate test of damage to the national security if disclosed. With further regard to sources and methods, we are aware of arguments that the proposed Order should not include any definition of sources and methods because such might unduly restrict an intelligence agency's position in litigation. While we favor the broadest feasible grounds for protecting intelligence sources and methods, we believe that the present environment is not receptive to a continued vacuum as to what is included in those terms. Rather than risk having a definition imposed on us--by a court or other body not necessarily knowledgeable of why and how sources and methods are sensitive--we believe that it is in the best interests of the Intelligence Community that we formulate our own definition and have it expressed at a national level. The proposed Executive Order is a good vehicle for that purpose.

SUBJECT: Proposed Executive Order on National Security Information and Material

3. An additional change needed in the proposed Order is to section 4(c) thereof, that covers declassification and declassification review of material classified under prior Orders. It was agreed during PRM-29 deliberations, and concurred in by the SCC, that a ten-year period should be allowed for agencies to catch up in their review of the ten-years' worth of classified material which would be instantly subject to such review by reason of the mandatory review period being changed from the 30 years allowed by E.O. 11652 to the 20 years prescribed by the proposed Order. In order to provide for such a catch-up period, the second sentence of section 4(c) should be changed to read: "Such classified information not so marked is and shall be, on and after January March, 1979 1988, automatically declassified 20 years from the date of its origin unless identified in the guidelines issued by the heads of agencies under subsection (a) above as requiring review." The NSC implementing directive for the proposed Order should then spell out in further detail how this catch-up process should be accomplished.

4. Subject to the changes above and in the attachment, we concur in the proposed Executive Order.

John N. McMahon

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Attachment:  
Draft E.O. Comments

SUBJECT: Proposed Executive Order on National Security Information  
and Material

Distribution: DCI/IC 77-1932

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